

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE NETWORK COMMERCE INC.
SECURITIES LITIGATION

No. C01-0675RSL

ORDER DENYING DEFENDANTS'
MOTION FOR PROTECTIVE ORDER

This matter comes before the Court on “Defendants’ Motion for Protective Order Limiting Discovery to Standing Issues.” Dkt. # 184. Defendants argue that discovery should be phased so that plaintiffs’ standing to assert a claim under Section 11 of the Securities Act of 1933 can be established in an efficient and expeditious manner. Plaintiffs argue that they have, in fact, purchased shares traceable to the May 8, 2000, Ubarter issuance and that a stay pending resolution of the standing issue will simply delay this case even further. Having reviewed the memoranda, declarations, and exhibits submitted by the parties, the Court finds as follows:

(1) Pursuant to Fed. R. Civ. P. 26(c)(1), the Court has the discretion to structure discovery in a way that will protect parties from undue burden or expense.

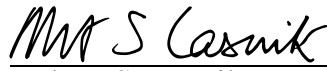
(2) The Court, at its own initiative and after reviewing the Ninth Circuit’s order and the remainder of the case file, established a relatively aggressive case management schedule for this litigation: discovery would last only eight months, with trial to begin in April 2011. Bifurcating

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1 discovery within those time frames is not practical. Defendants are invited to seek judicial
2 resolution of the standing issue as soon as possible, but delaying all other fact discovery while
3 that issue is investigated, briefed, and decided would unnecessarily delay this litigation.

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5 For all of the foregoing reasons, defendants' motion for a protective order is
6 DENIED.¹

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8 Dated this 30th day of April, 2010.

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10 Robert S. Lasnik
11 United States District Judge
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25 ¹ Because defendants' request was substantially justified, an award of fees under Fed. R. Civ. P.
26 26(c)(3) is not appropriate.